

NOTICES OF EXEMPT RULEMAKING

The Administrative Procedure Act requires the *Register* publication of the rules adopted by the state's agencies under an exemption from all or part of the Administrative Procedure Act. Some of these rules are exempted by A.R.S. §§ 41-1005 or 41-1057; other rules are exempted by other statutes; rules of the Corporation Commission are exempt from Attorney General review pursuant to a court decision as determined by the Corporation Commission.

NOTICE OF EXEMPT RULEMAKING

TITLE 7. EDUCATION

CHAPTER 3. COMMISSION FOR POSTSECONDARY EDUCATION

ARTICLE 5. ARIZONA FAMILY COLLEGE SAVINGS PROGRAM

PREAMBLE

- | | |
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| 1. <u>Sections Affected</u> R7-3-501 | <u>Rulemaking Action</u> Amend |
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- 2. The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**
Authorizing statute: A.R.S. § 15-1852(C)
Implementing statute: A.R.S. § 15-1873 et seq.
- 3. The effective date of the rules:**
January 9, 2002
- 4. A list of all previous notices appearing in the Register addressing the proposed rule:**
7 A.A.R. 4158, September 21, 2001, Notice of Rulemaking Docket Opening
7 A.A.R. 5062, November 2, 2001, Notice of Proposed Rulemaking
- 5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**
- | | |
|------------|--|
| Name: | Verna L. Allen, Executive Director |
| Address: | 2020 N. Central Avenue, Suite 550 Phoenix, AZ 85004 |
| Telephone: | (602) 258-2435 |
| Fax: | (602) 258-2483 |
- 6. An explanation of the rule, including the agency's reason's for initiating the rule:**
The Commission for Postsecondary Education needs to bring the Arizona Family College Savings Program (Program) Rules into conformity with the federal H.R. 1836, Economic Growth and Tax Relief Reconciliation Act of 2001, which was signed by President Bush on June 7, 2001, dealing with terms and definitions. This program rule amendment will satisfy conformity with the federal H.R. 1836 terms and definitions relating to the Internal Revenue Code § 529.
- 7. A reference to any study that the agency relied on in its evaluation of or justification for the rule and where the public may obtain or review the study, all data underlying each study, any analysis of the study and other supporting material:**
None
- 8. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:**
Not applicable
- 9. The summary of the economic, small business, and consumer impact:**
- a. An identification of the proposed rulemaking:

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Arizona Family College Savings Plan, R7-3-501, adopted pursuant to A.R.S. §15-1873 et seq.

b. An identification of the persons who will be directly affected by, bear the costs of, or directly benefit from the proposed rulemaking:

Persons directly affected are account owners.

An analysis of the probable costs and benefits from the implementation and enforcement of the proposed rulemaking on the Commission, and on any political subdivision or business directly affected by the proposed rulemaking:

The Commission will bear any administrative costs as a consequence of the proposed rulemaking.

The probable impact of the proposed rulemaking on employment in business, agencies, and political subdivisions of this state affected by the proposed rulemaking:

None.

A statement of the probable impact of the proposed rulemaking on small business:

None.

A statement of the probable effect on state revenue

No effect is anticipated as this Program is self-supported.

A description of any less intrusive or less costly alternative methods of achieving the purpose of the proposed rulemaking:

Due to the nature of the various statutory requirements, less intrusive or less costly alternatives are not available.

10. A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):

Not applicable

11. A summary of the principal comments and the agency response to them:

On September 7, 2001, the Commission had discussions and approved the Notice of Rulemaking Docket Opening Opening for the AFCSP Program Rules amendments for terms and definitions (R7-3-501). On October 15, 2001, the Commission held a public meeting for review and approval of the proposed rulemaking amendment R7-3-501 language. On January 3, 2002, the Commission held another meeting for public comments and approved the final amendment language for R7-3-501.

12. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:

Not applicable

13. Incorporation by reference and their location in the rules:

Not applicable

14. Was this rule previously adopted as an emergency rule?

Not applicable

15. The full text of the rules follows:

TITLE 7. EDUCATION

CHAPTER 3. COMMISSION FOR POST SECONDARY EDUCATION

ARTICLE 5. ARIZONA FAMILY COLLEGE SAVINGS PROGRAM

R7-3-501 Terms and Definitions

ARTICLE 5. ARIZONA FAMILY COLLEGE SAVINGS PROGRAM

R7-3-501. Definitions

A. "Account Year" means the period beginning on October 1 and ending on September 30 of each year.

A.B. "A.R.S." means Arizona Revised Statutes.

B.C. "Cash" means currency, bills and coin in circulation, or converting a negotiable instrument to cash by endorsing and presenting to a financial institution for deposit. An automatic transfer, cashier's check, and wire transfer will be treated as cash. Deposits will also be accepted by credit card.

C.D. "Code" means the Internal Revenue Service Code of 1986, as amended, or the corresponding provision of any future United States Internal Revenue law.

D.E. "Commission" means the Commission for Postsecondary Education as defined in A.R.S. § 15-1871.

E.F. "Committee" means the Family College Savings Program Oversight Committee as defined in A.R.S. § 15-1871.

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- F.G.** “Direct the investment” means specifying or attempting to specify the particular financial instruments (such as certificates of deposit) or ownership interests (such as stock certificates or interests in mutual funds) either individually, or within a fund family or other group of financial instruments or ownership interests held as an investment group, into which the account holder’s contributions or earnings will be invested. Direct the investment does not mean selecting an initial type of investment program if more than 1 program is offered.
- G.H.** “Higher education institution” means a higher education institution as defined in A.R.S. § 15-1871 (7), provided that, solely for the purposes of determining whether a withdrawal or distribution is subject to a penalty under R7-3-506, the term shall not include any institution that is not also an “eligible educational institution” as defined in Code §§ 529(e)(5).
- H.I.** “Negotiable instrument” means negotiable instrument as defined in A.R.S. § 47-3104.
- I.** “Qualified Tuition Program” means a qualified tuition program as defined in § 529 of the Code.

NOTICE OF EXEMPT RULEMAKING

TITLE 9. HEALTH SERVICES

**CHAPTER 30. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM
PREMIUM SHARING PROGRAM**

PREAMBLE

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|------------------------------------|---------------------------------|
| <u>1. Sections Affected</u> | <u>Rulemaking Action</u> |
| R9-30-201 | Amend |
- 2. The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**
- | | |
|-----------------------|--|
| Authorizing statute: | A.R.S. § 36-2923 and A.R.S. § 36-2923.01 |
| Implementing statute: | A.R.S. §§ 36-2923, 36-2923.01 and 36-2923.02 |
- 3. The effective date of the rules:**
October 1, 2001
- 4. A list of all previous notices appearing in the Register addressing the exempt rule:**
Not applicable
- 5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**
- | | |
|------------|---|
| Name: | Cheri Tomlinson, Federal and State Policy Administrator |
| Address: | AHCCCS, Office of Policy Analysis and Coordination 801 East Jefferson, Mail Drop 4200 Phoenix, AZ 85034 |
| Telephone: | (602) 417-4198 |
| Fax: | (602) 256-6756 |
- 6. An explanation of the rule, including the agency’s reasons for initiating the rule, including the statutory citation to the exemption from the regular rulemaking procedures:**
Laws 2001, Ch. 385, § 16 exempts the Administration from the rulemaking requirements of A.R.S. Title 41, Chapter 6 for the purposes of implementing the Premium Sharing Program (PSP) statewide. The Administration is amending R9-30-201(A)(8) to include original language, which was inadvertently omitted when Chapter 30 was filed on October 1, 2001.
- 7. A reference to any study that the agency relied on in its evaluation of or justification for the rule and where the public may obtain or review the study, all data underlying each study, any analysis of the study and other supporting material:**
Not applicable

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8. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:

Not applicable

9. The summary of the economic, small business, and consumer impact:

Not applicable

10. A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):

Not applicable

11. A summary of the principal comments and the agency response to them:

The rule language which appeared in the *Arizona Administrative Register* on October 12, 2001 is missing R9-30-201(A)(8)(c), "A person who is in an institution for the treatment of a mental disorder, unless provided under this Article" which is part of the original language proposed at the time of the public meeting on August 9, 2001. The Administration is correcting the omission from the exempt rulemaking package that was filed on October 1, 2001.

12. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:

None

13. Incorporations by reference and their location in the rules:

None

14. Was this rule previously adopted as an emergency rule? If so, please indicate the Register citation:

No

15. The full text of the rules follows:

TITLE 9. HEALTH SERVICES
CHAPTER 30. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM
PREMIUM SHARING PROGRAM

ARTICLE 2. SCOPE OF SERVICES

R9-30-201. General Requirements

- A.** In addition to the requirements and limitations specified in this Chapter, the following general requirements apply:
1. Covered services provided to a member shall be medically necessary and provided by or under the direction of a primary care provider or dentist; specialist services shall be provided under referral from and in consultation with the primary care provider.
 - a. The role or responsibility of a primary care provider, as defined in these rules, shall not be diminished by the primary care provider delegating the provision of primary care for a member to a practitioner.
 - b. Behavioral health screening and evaluation services may be provided without referral from a primary care provider. Behavioral health treatment services shall be provided only under referral from, and in consultation with, the primary care provider, or upon authorization by the contractor or its designee.
 - c. The contractor may waive the referral requirements.
 2. Behavioral health services are limited to 30 days of inpatient care and 30 outpatient visits per contract year under Laws 2001, Ch. 385, § 13.
 3. Services shall be rendered in accordance with state laws and regulations, the Arizona Administrative Code, and PSA contractual requirements.
 4. Experimental services as determined by the Director or services provided primarily for the purpose of research shall not be covered.
 5. PSP services shall be limited to those services that are not covered for a member who is covered by another funding source as specified in R9-30-301.

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6. Services or items, if furnished gratuitously, are not covered and payment shall be denied.
7. Personal care items are not covered and payment shall be denied.
8. Medical or behavioral health services shall not be covered if provided to:
 - a. An inmate of a public institution;
 - b. A person who is in an institution for the treatment of tuberculosis; or
 - c. A person who is in an institution for the treatment of a mental disorder, unless provided under this Article.
- B. The PSA may require that providers be AHCCCS registered. Services may be provided by AHCCCS registered personnel or facilities that meet state requirements and are appropriately licensed or certified to provide the services.
- C. Payment for services or items requiring prior authorization may be denied if prior authorization is not obtained from the contractor. Emergency services as defined in A.A.C. R9-22-102 do not require prior authorization; however, the member shall notify the contractor as required in R9-30-210.
 1. The contractor shall prior authorize services for a member based on the diagnosis, complexity of procedures, and prognosis, and be commensurate with the diagnostic and treatment procedures requested by the member's primary care provider or dentist.
 2. Services for unrelated conditions requiring additional diagnostic and treatment procedures require additional prior authorization.
 3. In addition to the requirements of Article 7 of this Chapter, written documentation of diagnosis and treatment may be required for reimbursement for services that require prior authorization.
- D. A covered service rendered to a member shall be provided within the service area of the member's contractor except when:
 1. A primary care provider refers a member out of the contractor's area for medical specialty care;
 2. A covered service that is medically necessary for a member is not available within the contractor's service area;
 3. A net savings in service delivery costs can be documented without requiring undue travel time or hardship for a member or the member's household;
 4. A member is placed in a nursing facility located out of the contractor's service area with contractor approval;
 5. The service is otherwise authorized by the contractor based on medical practice patterns, and cost or scope of service considerations; or
 6. The service is an emergency service as defined in R9-30-210.
- E. When a member is traveling or temporarily outside of the service area of the member's contractor, covered services are restricted to emergency care services, unless otherwise authorized by the contractor.
- F. A contractor shall provide at a minimum, directly or through subcontracts, the covered services specified in these rules and in contract.
- G. The Director shall determine the circumstances under which a member may receive services, other than emergency services as specified in subsection (E), from service providers outside the contractor's service area or outside the state. Criteria considered by the Director in making this determination shall include availability, accessibility of appropriate care, and cost effectiveness.
- H. If a member is referred out of the contractor's service area to receive an authorized medically necessary service for an extended period of time, the contractor shall also provide all other medically necessary covered services prior authorized by the contractor for the member during that time.
- I. The restrictions, limitations, and exclusions in this Article shall not apply to the costs associated with providing any noncovered service to a member and shall not be included in development or negotiation of capitation.
- J. Under A.R.S. § 36-2907 the Director may, upon 30 days advance written notice to contractors, modify the list of services for all members.
- K. A contractor may withhold non emergency medical services to a member who does not pay a copayment in full at time the service is rendered under A.R.S. § 36-2923.01.